

May 18, 2006

Via Email – Original Signed Copy to Follow

Ms Wendy Cohen
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, California 95670-6114

Dear Ms Cohen:

RE: Comments on Proposed Individual Discharger Conditional Waiver of Waste
Discharge Requirements for Discharges from Irrigated Lands (Wavier)

The Modesto Irrigation District (Modesto ID) appreciates the opportunity to comment on the tentative order for the Proposed Individual Discharger Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Waiver). The proposed order represents many hours of work on the part of both the RWQCB staff and the regulated community. Modesto ID supports the five year term of the proposed Waiver as it will allow for the consistent collection of data and evaluation of multiple years of data in order to determine where water quality problems do and do not occur. Only after a consistent data set has been assembled can activities and practices be performed or changed, as needed, to improve water quality.

Modesto ID would like to comment on several of the definitions included in this proposed Waiver document. The first issue with definitions is in regards to “operational spill”. Definition #9 defines an operational spill as “Irrigation water that is diverted from a source such as a river, but is discharged without being delivered to or used on an individual field.” This definition captures the essence of what an operational spill is. However, in definition #3, discharges of waste from irrigated lands is defined among other things as “operational spills”. If definition #9 is true, that it is undelivered water, and Modesto ID would contend it is, then “operational spill” should not be used as an example of a discharge waste from irrigated lands in definition #3. Modesto ID requests the removal of “operation spill” from definition #3. Along this same line, definition #16 states that a water district may be a discharger if it discharges operational spills. For the same reasons that “operational spill” should be removed from definition #3, it should also be removed from definition #16.

In regards to definition #16, it states; “Water districts may be a discharger if the water district accepts or receives discharges from irrigated lands...” However definition #2 states that a discharger is “The owner and/or operator of irrigated lands that discharge or

have the potential to discharge waste that could directly or indirectly reach surface waters of the State.” According to definition #17, irrigation district canals are surface waters of the State, therefore the discharger who makes a discharge to a canal is responsible for the discharge, not the irrigation district. The responsibility for a discharge cannot be removed from the discharger and handed to a downstream third party. This reference to water districts being a discharger because it accepts or receives discharges from irrigated lands needs to be removed from definition #16.

If you have any questions or concerns regarding this document, please contact me at (209)-526-7459 or by e-mail at walterw@mid.org.

Sincerely,

Walter Ward
Assistant General Manager, Water Operations
Modesto Irrigation District

cc: Mr. Bill Croyle, RWQCB
Mr. Robert Schneider, RWQCB-Chair